Supreme Court, U. S.
FILED
NOV 19 1975
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1975

Docket No. 75-496

REGIONAL HIGH SCHOOL DISTRICT NO. 5, REGIONAL BOARD OF EDUCATION OF REGIONAL HIGH SCHOOL DISTRICT NO. 5, HENRY W. BENEDICT, as Treasurer of the Town of Bethany, JAMES BERRY, as Treasurer of the Town of Woodbridge, SIDNEY SVIRSKY, as Town Clerk of the Town of Bethany, and JEAN HANNA, as Town Clerk of the Town of Woodbridge,

Petitioners,

vs.

JOHN E. BAKER and GERALDINE S. GEORGE,

Respondents.

REPLY OF PETITIONERS

S. ROBERT JELLEY,
J. MICHAEL EISNER,
195 Church Street
New Haven, Connecticut 06508.

GERALD P. DWYER,
246 Church Street,
New Haven, Connecticut 06510.

FREDERICK S. MOSS,
273 Orange Street,
New Haven, Connecticut 06510.

IN THE

Supreme Court of the United States

October Term, 1975

Docket No. 75-496

REGIONAL HIGH SCHOOL DISTRICT No. 5, REGIONAL BOARD OF EDUCATION OF REGIONAL HIGH SCHOOL DISTRICT No. 5, HENRY W. BENEDICT, as Treasurer of the Town of Bethany, JAMES BERRY, as Treasurer of the Town of Woodbridge, SIDNEY SVIRSKY, as Town Clerk of the Town of Bethany, and JEAN HANNA, as Town Clerk of the Town of Woodbridge,

Petitioners,

vs.

JOHN E. BAKER and GERALDINE S. GEORGE,

Respondents.

REPLY OF PETITIONERS

1. The opinion of the Court of Appeals, dated July 23, 1975, has now been reported at 520 F.2d 799.

2. Petitioners have previously set out at pages 6-7 and 11 of their petition the powers of the regional board. Respondents at pages 5-10 of their brief in opposition have discussed the powers of the regional board in such an inaccurate and misleading manner as to require correction in this reply.

a. *Bonds and other borrowing.* A regional board may issue bonds *only* when authorized by referendum in the towns comprising the district. § 10-56(a). It may issue

bond anticipation notes for up to four years *only* when it has been authorized by referendum to issue bonds. § 10-56(c). It may also borrow up to $200,000 for up to five years *only* when authorized by vote of a district meeting. § 10-60.

b. *Determination of amounts to be paid by each town.* After adoption of the budget by the district meeting, the regional board merely mathematically determines the amount payable by each town in accordance with the formula set out in § 10-51(b) and notifies the treasurer of each town of the amount. § 10-51(a). It has no discretion in determining the amount, and it has no power to levy and collect taxes.

c. *Transfer of funds between items in the budget.* After adoption of the budget by the district meeting, the regional board "may transfer any unexpended or uncontracted-for portion of any appropriation for school purposes to any other item" of the budget. § 10-222. But respondents' argument (raised for the first time in their brief in opposition, p. 9) that this is a "truly awesome power" ignores the realities of regional school district operation. See *Salyer Land Co.* v. *Tulare Water District,* 410 U. S. 719, 734 (1973). The uncontroverted affidavits of the Chairman of the regional board and of the Superintendent of District No. 5 (submitted in opposition to respondents' motion for summary judgment) establish that the itemized budget as adopted by the district meeting governs the activities and operation of District No. 5.

d. *Submission of collective bargaining agreements to the district meeting.* Teachers' salaries constitute more than half of District No. 5's budgeted expense for the year

(Smith Aff., Ex. 4). While it is the regional board that initially negotiates a collective bargaining agreement with the representatives of the teachers, the district meeting may reject an agreement within thirty days after it has been filed. § 10-153d. A special district meeting for that purpose may be convened by the regional board, § 10-47, and must be convened by the regional board upon request of the chief executive officer of any member town, § 10-153d, or upon application of twenty inhabitants of the regional district.[1] §§ 10-47, 10-242, 7-1. The district meeting's power to reject a collective bargaining agreement is an important adjunct to its power to approve or reject the district's annual budget.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

S. Robert Jelley
J. Michael Eisner,
Attorneys for Petitioners.

Of Counsel:

Gerald P. Dwyer
Frederick S. Moss

November, 1975

1. Respondents' brief in opposition (pp. 9-10) is incorrect on this point, and so is the Court of Appeal's opinion (Petition, Appendix. p. 7a).